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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,554	03/30/2004	Joachim Eldring	P00820-US1	3404
3017	7590	02/24/2005	EXAMINER	
BARLOW, JOSEPHS & HOLMES, LTD. 101 DYER STREET 5TH FLOOR PROVIDENCE, RI 02903			PETKOVSEK, DANIEL J	
			ART UNIT	PAPER NUMBER
			2874	

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,554

Applicant(s)

ELDRING ET AL.

Examiner

Daniel J. Petkovsek

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed January 25, 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 4 is/are rejected.
- 7) ☒ Claim(s) 5-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to the amendment filed January 25, 2005. In accordance with the amendment, claim 1 has been amended, while claim 2 has been canceled. The amendment to the specification is acknowledged.

It is noted that on page 5 in the remarks, that Sauter et al. U.S.P. No. is 6,056,448. This section incorrectly references patent number 5,945,775, which is believed to be a typo.

Claims 1, and 3-10 are currently pending. Claim 1 is the only independent claim.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Sauter et al. U.S.P. No. 6,056,448.

Sauter et al. U.S.P. No. 6,056,448 teaches (ABS, Figs. 1-3, columns 3 and 4) an optical subassembly (and inherent method of making same) comprising: mounting an array of optoelectronic devices 30 (VCSEL chip) to a metallic plate 44 (PCB), aligning a lens frame 102 containing a lens array 112 in at least the X and Y direction with respect to the array of optoelectronic devices 30, and fixing the lenses to the PCB, in which the array of optoelectronic

Art Unit: 2874

devices are hermetically sealed (see column 3, line 65 through column 4, line 15), which clearly, fully meets Applicant's claimed limitations.

Regarding claim 3, the lenses must be aligned at the correct angle in order to properly align the optoelectronic devices with the lens array.

Regarding claim 4, see column 3, line 65 through column 4, line 15 for using laser welding to join the components.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giboney et al. US 2003/0091302 A1, and further in view of Sauter et al. U.S.P. No. 6,056,448.

Giboney et al. US 2003/0091302 A1 teaches (ABS, Figs. 2A, 2B, [0025]-[0033]) an optical assembly (and inherent method of making) comprising: mounting an array of optoelectronic devices 217 to an IC metallic plate 219, aligning a lens frame 214 containing a lens array 224 in at least the X and Y directions with respect to the optoelectronic devices 217, and affixing the lens frame 214 to the plate. Giboney et al. '302 does not explicitly teach hermetically sealing the optical components or affixing the components together by welding.

Sauter et al. U.S.P. No. 6,056,448 teaches (ABS, Fig. 4, column 3, line 65 through column 4, line 15) an optical subassembly (and inherent method of making same) comprising: mounting an array of optoelectronic devices to a PCB, aligning a lens frame containing a lens

array in at least the X and Y direction with respect to the array of optoelectronic devices, and fixing the lenses to the PCB. Sauter et al. also teach hermetically sealing the array of device (for improved coupling and less error) and affixing components together by welding.

Since Giboney et al. '302 and Sauter et al. '448 are both from the same field of endeavor, the purpose disclosed by Sauter et al. '448 (hermetic sealing of component, laser welding to join components) would have been recognized in the pertinent art of Giboney et al. '302.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use hermetical sealing for the purpose of protecting the optical components, and to use laser welding (claim 4) to join and retain the components for the proper connectivity in the optical arts.

Regarding claim 3, the lens frame 214 must be aligned at the correct angle in order to properly align the optoelectronic devices with the lens array.

Allowable Subject Matter

5. Claims 5-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The relevant prior art of record does not explicitly teach or reasonably suggest the specific method limitations of claim 5 (placing a retainer on a weld plate (including a fiber stub array), aligning the weld plate in the Z direction, and fixing the weld plate to the lens frame). Claims 6-10 depend from claim 5, and as such, are also objected to as being allowable.

Response to Arguments

6. Applicant's arguments filed January 25, 2005 have been fully considered but they are not persuasive. Applicant traverses the rejections to independent claim 1 by stating that neither

Art Unit: 2874

Sauter et al. '448, or Giboney et al. '302 (in view of Sauter et al. '448) teach that the array of optoelectronic devices are sealed by the lens array.

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the array of optoelectronic devices being sealed *by the lens array*) are not recited in the rejected claims. The language of claim 1 can be interpreted to read that the array of optoelectronic devices are hermetically sealed. Applicant does not explicitly claim that the array of optoelectronic devices are, in fact, sealed by the lens array. The Sauter et al. '448 reference, broadly, teaches hermetically sealing the optoelectronic devices (see column 3, line 65 through column 4, line 15). As such, the Sauter et al. '448 reference meets the *claimed* limitations. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S.P. No. 6,616,345 to von Freyhold et al.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 2874

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Petkovsek whose telephone number is (571) 272-2355. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Petkovsek
February 17, 2005



AKM ENAYET ULLAH
PRIMARY EXAMINER